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Washington, DC 20005-1503

EXAMINER
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BADR, HAMID R

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1781

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06/09/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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***Advisory Action***

Applicants' remarks after final rejection; filed 5/23/2011 is acknowledged.

The rejection of claims 9 and 11-15 under 35 U.S.C. 112 second paragraph is withdrawn.

The rejection of claims 9 and 11-15 under 35 U.S.C. 103(a) is maintained. These remarks are entered for appeal purposes.

***Response to Arguments***

Applicants' arguments regarding the rejection of claims under 35 U.S.C. 103(a) are not persuasive for the following reasons.

1. Applicants argue that they wonder why the fermented product of R2 can be substituted for the soymilk of R1.

a. R1 clearly discloses incorporating soy milk into dough for baking purposes. The level of incorporation of soymilk into dough as disclosed by R1 corresponds to the levels as presently claimed for the reasons outlined in the pending final Office action.

R2 clearly teaches of improving the taste of soymilk by fermenting it with yeast and lactic acid bacteria. Therefore, the soymilk of R1 is being substituted with a fermented soymilk with improved organoleptic and functional properties. The improvement in organoleptic properties is clearly disclosed by R2.

2. Applicants argue that R2 is an invention to improve the flavor of the fermented soybean milk, not regular soybean milk.

a. R2 starts with regular soymilk. The prepared regular soymilk is then fermented with lactic acid bacteria and yeast. Therefore, the flavor of regular soymilk is being improved.

3. Applicants argue that the disclosure of R3 teaches away from the present invention with respect to soybean solid content.

a. R3 discloses two fundamental concepts. The first concept is the incorporation of fermented soybean material into dough for baking purposes. The second one is the treatment of soybean protein with protease which is a requirement of claim 15. Therefore, R3 is a clear motivation for incorporating fermented soybean material into bread.

b. The calculations, based on R3, presented by Applicants are not persuasive; because the levels of soymilk incorporated into dough is set forth by R1 (the primary reference). R3 is a teaching reference disclosing the motivation on one hand, and the treatment of soy protein with protease; on the other hand.

c. The rejection of claims 9 and 11-15 is an obviousness type rejection involving multiple references. Applicants have tried to criticize individual references cited in the rejection of claims 9 and 11-15.

No claims are allowed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAMID R. BADR whose telephone number is (571)270-3455. The examiner can normally be reached on M-F, 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 1781

HAMID R BADR  
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